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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,569	06/12/2006	Pawel Musial	USO40023	1636
24737 7590 04/01/2009 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER CHAKOUR, ISSAM				
ART UNIT 2617		PAPER NUMBER		
MAIL DATE 04/01/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/582,569

Applicant(s)

MUSIAL, PAWEL

Examiner

ISSAM CHAKOUR

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Rafael Pérez-Gutiérrez/
Supervisory Patent Examiner, Art Unit 2617

/Issam Chakour/
Examiner, Art Unit 2617

Continuation of 11, does NOT place the application in condition for allowance because:

Regarding claims 1, 2, 9, 10-11, and 18-19, the examiner respectfully disagrees with the applicant's explicit traverse. The applicant submitted that the determination of longevity value in the central processor is contrary to the claimed elements as in "...determining by the terminal a current location...saving in the terminal an identifier of the determined location based on a longevity of said terminal", in another word the applicant argues that claim 1 discloses that the terminal determines its longevity in a particular area. The examiner directs however the applicant's attention to claim 1, noting that nowhere in claim 1 it is explicitly disclosed that the determination of the longevity or the determining of the longevity is performed by the terminal, what is disclosed is that the terminal saves its location based on the determination of its longevity which could be handled by the BTS controller or MSC with whom the terminal is in communication. Claim 1 does not state that the terminal saves an identifier of its present location after having determined- the terminal, its longevity in the location. The examiner further acknowledges the applicant that Kabala provided the feature of determining a longevity unlike the applicant's interpretation, in another words, the examiner imported the feature of "determining the longevity" into the obvious combined disclosures regardless of which element performed the feature, as it is well within the grasp of one of ordinary skill in the art to implement such feature in the terminal in order to allow the mobile [as in Meade] to transfer the preference into a DVR or TIVO. Additionally, the applicant submitted that even if it could be said that the determination of longevity value by the central processor is comparable to the subject matter claimed, Kabala fails to teach providing longevity information to the terminal, submitting that the terminal or badge has no capability of receiving information from the central processor. The examiner as mentioned above states that the feature taught by Kabala is determining the longevity at a certain location regardless which element is computed at, since Smith teaches the terminal as a mobile unit roaming and recording its location and using the location in providing the user with a potentially interesting and relevant items, programs, advertisements to said user. Evenso it is taught that the feature is performed at the central processor, it is accessible and obvious to one of ordinary skill in the art to implement in the terminal in order to achieve the objective of Smith's invention but in view of the modification as in Meade to allow the user to selectively display preferred programs and advertising. Claims 3-8 and 12-17 depend on the above claims and therefore inherit the deficiency presented by their independent claims.